

BEFORE THE DIVISION OF INSURANCE

STATE OF COLORADO

Order No. O-13-060

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**FINAL AGENCY ORDER**

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IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF GOLDEN RULE  
INSURANCE COMPANY,

Respondent.

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THIS MATTER comes before the Colorado Commissioner of Insurance ("Commissioner") as a result of a market conduct examination ("MCE") conducted by the Colorado Division of Insurance ("Division") of Golden Rule Insurance Company ("Respondent"), pursuant to §§ 10-1-203, 10-1-204, and 10-1-205, as well as § 10-3-1106, C.R.S.

The Commissioner has fully considered and reviewed the Verified MCE Report ("Report") dated October 15, 2012, the written submissions and rebuttals provided November 15, 2012 by Respondent in response to the Report, and the recommendations of staff.

The Report covers the examination period of January 1, 2010, through December 31, 2010.

The Commissioner makes the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

1. At all relevant times during the examination, the Respondent was licensed by the Division to conduct business as a life, accident and health insurer in the State of Colorado.
2. On October 15, 2012, in accordance with §§ 10-1-203, 10-1-204, and 10-1-205, C.R.S., the Division completed an MCE of the Respondent. The period of examination was January 1, 2010, through December 31, 2010.
3. In conducting the MCE, the examiners observed those guidelines and procedures set forth in the 2011 Market Regulation Handbook adopted by the National Association of Insurance Commissioners.
4. The MCE was completed on October 15, 2012. Pursuant to § 10-1-205(2) the market conduct examiners prepared the Report, which the Examiner-in-Charge timely filed

with the Division, under oath, on October 15, 2012. The Report was subsequently timely transmitted to Respondent on October 15, 2012.

5. On October 15, 2012, the Division provided the Respondent with written notification that it was afforded a right to file, within thirty (30) days, written submissions or rebuttals with respect to any matter contained in the Report.
6. Pursuant to § 10-1-205(1), C.R.S., the Report is comprised of only the facts appearing upon the books, records, or other documents of the Respondent, its agents or other persons who were examined concerning Respondent's affairs. The Report contains the conclusions and recommendations that the examiners find reasonably warranted based upon the facts.
7. On November 15, 2012, the Respondent timely filed written submissions and rebuttals to the Report as provided for at § 10-1-205(2), C.R.S.
8. The Commissioner has fully considered and reviewed the Report, the Respondent's November 15, 2012, submissions and rebuttals to the Report, and the recommendations of staff.
9. The MCE has proceeded under the substantive terms, authority and procedures set forth at §§ 10-1-203, 10-1-204 and 10-1-205, C.R.S., as well as § 10-3-1106, C.R.S.

#### **CONCLUSIONS OF LAW AND ORDER**

10. Pursuant to § 10-1-205(3)(a), C.R.S., the Commissioner adopts the Report as modified ("Modified Report"). The Commissioner has modified the Report as follows: Issues E5 and E12 were removed from the Report. Recommendations 2 and 11 were restated. Sixty-three exceptions were removed from Issue J1, resulting in sixty-four (64) exceptions remaining. One exception was removed from Issue J2, resulting in forty-six (46) exceptions remaining. One exception was removed from Issue K2, resulting in two (2) exceptions remaining. Issue K2 was restated.
11. The Commissioner finds the Respondent operated in violation of Colorado insurance law and hereby orders the Respondent to take necessary and appropriate action, as set forth herein, to cure such violations.
12. The Commissioner considered the options available under §10-1-205(3)(b) and (c), C.R.S. After such consideration the Commissioner did not reject the Report or direct the examiners to reopen the examination for the purposes of obtaining additional data, documentation, or information, or to refile the Report pursuant to subsection (1) of §10-1-205, C.R.S. The Commissioner finds an investigatory hearing, pursuant to §10-1-205(3)(c), C.R.S., for the purposes of obtaining additional documentation, data, information, and testimony, is not warranted.



13. A copy of the Modified Report is attached to the Final Agency Order and is incorporated herein. The October 15, 2012, Report provided Respondent with the opportunity to show cause as to why it should not be found in violation of the Colorado insurance laws and/or regulations for all issues identified below. Respondent provided its submission and rebuttals on November 15, 2012. The Respondent was required to cure the violations set forth below in the time frame and manner set forth below.
14. Issue A1: Certification and use of non-compliant forms. This failure constitutes a violation of § 10-3-1104, C.R.S. No later than thirty (30) days from the date of this Final Agency Order, the Respondent shall provide written evidence to the Division that it has revised its procedures to ensure that all forms issued or delivered to Colorado insureds comply with statutory mandates as certified to by an officer of the Company.
15. Issue E1: Failure of the Company's forms, in some instances, to include coverage for services based on a licensed provider's status (e.g., an immediate family member). *(This was identified as a repeat of prior issue E3 in the 2004 examination report.)* This failure constitutes a violation of § 10-16-104, C.R.S. The Respondent was required to provide written evidence to the Division that it has revised its forms and implemented procedures to provide reimbursement for covered services performed by a licensed provider if the provider normally charges for the services regardless of the provider's status as a member of the insured's immediate family, as required by Colorado insurance law. Division records indicate the Respondent has corrected its forms to comply with recommendations in the Report.

In the market conduct examination for the period of January 1, 2004 through December 31, 2004, Golden Rule was cited for failure to provide benefits for covered services based on a licensed provider's status, e.g., a family member. The violation resulted in Recommendation #3 of Final Agency Order O-06-055 that indicated the Company should revise all applicable forms to reflect that benefits may not be denied based solely on a provider's status, such as a family member, to ensure compliance with Colorado insurance law. Having been previously ordered to revise its forms in this manner, the Company knew or should have reasonably known that its continued use of such forms during the current examination period constituted a repeat violation of § 10-16-104, C.R.S., providing grounds for an increased penalty pursuant to § 10-1-205(3)(d), C.R.S.

16. Issue E2: Failure of the Company's forms, in some instances, to include a complete description of the mandatory coverage for child health supervision services. This failure constitutes a violation of § 10-16-104, C.R.S., and Colorado Insurance Regulation 4-6-5. No later than sixty (60) days from the date of this Final Agency Order, the Respondent shall provide written evidence to the Division that it has revised all applicable forms to reflect the benefits to be provided for preventive child health supervision services as required by Colorado insurance law. Within these sixty (60) days, Golden Rule shall also provide the Division with specimen copies of all forms that had previously contained the non-compliant language and the proposed date the



revised forms will be put in use.

17. Issue E3: Failure of the Company's forms, in some instances, to include creditable coverage for certain conditions. This failure constitutes a violation of § 10-16-118, C.R.S. No later than sixty (60) days from the date of this Final Agency Order, the Respondent shall provide written evidence to the Division that it has revised all applicable forms to reflect the possibility of creditable coverage reducing or eliminating the time period applicable for coverage to be available for any preexisting conditions as required by Colorado insurance law. Within these sixty (60) days, Golden Rule shall also provide the Division with specimen copies of all forms that had previously contained the non-compliant language and the proposed date the revised forms will be put in use.
18. Issue E4: Failure of the Company's forms, in some instances, to reflect the correct upper age limit for treatment of congenital defects and birth abnormalities. This failure constitutes a violation of § 10-16-104, C.R.S. The Respondent was required to provide written evidence to the Division that it has revised all applicable forms to reflect the correct upper age limit for therapies to be provided for congenital defects and birth abnormalities as required by Colorado insurance law. Division records indicate the Respondent has corrected its forms to comply with recommendations in the Report.
19. Issue E5: This issue was removed from the report.
20. Issue E6: Failure of the Company's forms, in some instances, to reflect mammography and prostate cancer screening that is exempt from deductibles if provided by a non-participating provider. This failure constitutes a violation of § 10-16-104, C.R.S. The Respondent was required to provide written evidence to the Division that it has revised all applicable forms to reflect that the preventive health services of mammograms and prostate cancer screenings are exempt from a deductible whether the services are provided by a network provider or a non-network provider as required by Colorado insurance law. Within these sixty (60) days, Golden Rule shall also provide the Division with specimen copies of all forms that had previously contained the non-compliant language and the proposed date the revised forms will be put in use.
21. Issue E7: Failure to include the required definition of a "significant break in coverage" on its Certificate of Creditable Coverage form. This failure constitutes a violation of Colorado Insurance Regulation 4-2-18. The Respondent was required to provide written evidence to the Division that it has revised its Certificate of Creditable Coverage to include the definition of a "significant break in coverage" that is in compliance with Colorado insurance law. Division records indicate the Respondent has corrected its forms to comply with recommendations in the Report.
22. Issue E8: Failure of the Company's forms, in some instances, to reflect correct information in a cooperation provision concerning denial of claims. This failure constitutes a violation of §§ 10-3-1104 and 10-16-106.5, C.R.S. No later than sixty



(60) days from the date of this Final Agency Order, the Respondent shall provide written evidence to the Division that it has revised all applicable forms to remove the part of the claims "Cooperation Provision" that is not in compliance with Colorado insurance law. Within these sixty (60) days, Golden Rule shall also provide the Division with specimen copies of all forms that had previously contained the non-compliant language and the proposed date the revised forms will be put in use.

In addition, the Company shall conduct a self-audit of all medical claims received January 1, 2009, through October 21, 2011, to determine if any claims were improperly denied for lack of additional information. Golden Rule shall adjudicate each such claim, paying benefits due as well as any interest and penalty owed, to the appropriate individual and provide a report of the self-audit to the Division no later than ninety (90) days from the date this report is adopted.

23. Issue E9: Failure of the Company's forms, in some instances, to allow prescription drug benefits or diagnosis or treatment benefits due to a covered person's addiction to or dependency on tobacco. This failure constitutes a violation of § 10-16-104, C.R.S. The Respondent was required to provide written evidence to the Division that it has revised all applicable forms to eliminate exclusions for prescription items related to tobacco cessation and for diagnosis or treatment of nicotine addiction in accordance with Colorado insurance law. Within these sixty (60) days, Golden Rule shall also provide the Division with specimen copies of all forms that had previously contained the non-compliant language and the proposed date the revised forms will be put in use.
24. Issue E10: Failure, in some instances, to reflect correct information with regard to measuring the number of days versus full months to be allowed for creditable coverage. This failure constitutes a violation of § 10-16-118, C.R.S., and Colorado Insurance Regulation 4-2-18. The Respondent was required to provide written evidence to the Division that it has revised all applicable forms to reflect that credit will be given under the 12 month preexisting conditions exclusion for the number of days, not full months, an insured was continuously covered under the prior creditable coverage as required by Colorado insurance law. Within these sixty (60) days, Golden Rule shall also provide the Division with specimen copies of all forms that had previously contained the non-compliant language and the proposed date the revised forms will be put in use.
25. Issue E11: Failure, in some instances, to reflect the correct method of calculating interest on death benefits in an Accidental Death Insurance Rider. This failure constitutes a violation of § 10-7-112, C.R.S. No later than sixty (60) days from the date of this Final Agency Order, the Respondent shall provide written evidence to the Division that it has corrected all applicable forms to reflect the correct method of calculating interest on death benefits as required by Colorado insurance law. Within these sixty (60) days, Golden Rule shall also provide the Division with specimen copies of all forms that had previously contained the non-compliant language and provide the proposed date the revised forms will be put in use.

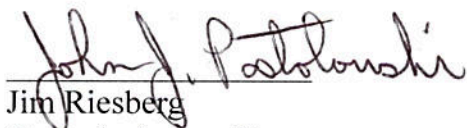


26. Issue E12: This issue was removed from the report.
27. Issue J1: Failure, in some instances, to pay, deny or settle claims within the time periods required by Colorado insurance law. This failure constitutes a violation of § 10-16-106.5, C.R.S. The Respondent was required to provide written evidence to the Division that it has revised reviewed its claims processing quality controls to ensure that all claims are adjudicated within the required time periods as required by Colorado insurance law. The Division's records indicate that the Respondent has submitted procedures, which if fully implemented, appear to comply with the corrective actions required concerning this violation.
28. Issue J2: Failure, in some instances, to correctly calculate the amounts of late payment interest and penalties due. This failure constitutes a violation of § 10-16-106.5, C.R.S. The Respondent was required to provide written evidence to the Division that it has reviewed and modified its claims processing quality controls to ensure that all late payment interest and penalties that are due are properly calculated as required by Colorado insurance law. The Division's records indicate that the Respondent has submitted procedures, which if fully implemented, appear to comply with the corrective actions required concerning this violation.
29. Issue K1: Failure, in some instances, to have initial denial of benefit letters or first level review adverse determinations signed by a licensed physician. This failure constitutes a violation of § 10-16-113, C.R.S. No later than sixty (60) days from the date of this Final Agency Order, the Respondent shall provide written evidence to the Division that it has instituted corrective procedures to ensure that all written denials of benefits on the ground that such treatment or covered benefit is not medically necessary, appropriate, effective, or efficient are signed by a licensed physician familiar with standards of care in Colorado as required by Colorado insurance law.
30. Issue K2: Failure, in some instances, to include all required information in the written notification of adverse decisions for first level reviews. This failure constitutes a violation of Colorado Insurance Regulation 4-2-17. No later than sixty (60) days from the date of this Final Agency Order, the Respondent shall provide written evidence to the Division that it has revised its procedures to ensure that notifications of adverse decisions for first-level utilization reviews include all information required by Colorado insurance law.
31. The issues and violations described in paragraphs 14 through 30 above are grounds for penalties to be levied pursuant to § 10-1-205(3)(d), C.R.S. The Commissioner has ordered a civil penalty in the amount of fifty-four thousand and no/100 dollars (\$54,000.00) for the cited violations of Colorado law. The \$54,000.00 penalty shall be assessed a surcharge of 10% or \$5,400.00, pursuant to 24-34-108, C.R.S., for a total balance due of fifty-nine thousand four hundred dollars (\$59,400.00). The surcharge shall be used to fund the development, implementation and maintenance of a consumer

outreach and education program. The penalty and surcharge shall be due to the Division no later than thirty (30) days from the date of this Final Agency Order.

32. Pursuant to § 10-1-205(4)(a), C.R.S., within sixty (60) days of the date of this Final Agency Order, the Respondent shall file affidavits executed by each of its directors stating under oath that they have received a copy of the Report, as modified and adopted by this Final Agency Order, dated December 11, 2012.
33. This Final Agency Order shall not prevent the Division from commencing future agency action relating to conduct of the Respondent not specifically addressed in the Modified Report, not resolved according to the terms and conditions in this Final Agency Order, or occurring before or after the examination period. Failure by the Respondent to comply with the terms of this Final Agency Order may result in additional actions, penalties and sanctions, as provided for by law. Copies of the Modified Report and this Final Agency Order will be made available to the public no earlier than thirty (30) days after the date of this Final Agency Order, subject to the requirements of § 10-1-205, C.R.S.
34. Pursuant to § 10-1-205(4)(a), C.R.S., this Final Agency Order shall be considered a final agency decision. Review of such decision may be sought in the District Court in and for the City and County of Denver and shall be governed by the "State Administrative Procedure Act," Article 4 of Title 24, C.R.S.
35. Pursuant to § 10-1-205(4)(e), C.R.S., the civil penalty assessed in this Final Agency Order may be appealed directly to the Colorado Court of Appeals within the applicable time frames of the Colorado Appellate Rules.

**WHEREFORE:** The Report dated October 15, 2012, subsequently adopted by the Commissioner with modifications on December 11, 2012, along with the findings of fact and conclusions of law contained within this Final Agency Order incorporating the adopted Modified Report are hereby approved and effective this 11th day of December, 2012, and filed and made an official record of this office.

  
Jim Riesberg

Commissioner of Insurance

By John J. Postolowski

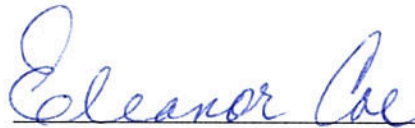
Deputy Commissioner of Finance and Administration



**CERTIFICATE OF MAILING**

I hereby certify that on the 11th day of December, 2012, I caused to be deposited the **FINAL AGENCY ORDER NO. O-13-060 IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF GOLDEN RULE INSURANCE COMPANY**, in the United States  
Mail via certified mailing with postage affixed and addressed to:

Mr. Patrick F. Carr, President  
Golden Rule Insurance Company  
7440 Woodland Drive  
Indianapolis, IN 46278



Eleanor Coe  
Market Regulation Administrator  
Division of Insurance